

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
AND NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **April 19, 2001**, at 10:00 a.m.
in the Auditorium of the State Water Resources Building,
1416 Ninth Street, Sacramento, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **April 19, 2001**, following the Public Meeting,
in the Auditorium of the State Water Resources Building,
1416 Ninth Street, Sacramento, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **April 19, 2001**, following the Public Hearing,
in the Auditorium of the State Water Resources Building,
1416 Ninth Street, Sacramento, California.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

JERE INGRAM, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders, the Low Voltage Electrical Safety Orders, and the High Voltage Electrical Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **April 19, 2001**.

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
 Chapter 4, Subchapter 4, Article 4
 Section 1532.1
 Notification to the Division of Lead-Related Work

2. TITLE 8: **LOW VOLTAGE ELECTRICAL SAFETY ORDERS**
 Chapter 7, Subchapter 5, Article 3
 Section 2320.2(a)
 HIGH VOLTAGE ELECTRICAL SAFETY ORDERS
 Chapter 7, Subchapter 5, Article 36
 Section 2941(f)
 Electrical Worker Apparel and Use of a Ground-Based Observer When Performing Rubber Gloving Operations on Energized Conductors/Equipment

Descriptions of the proposed changes are as follows:

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 4
Section 1532.1
Notification to the Division of Lead-Related Work

**INFORMATIVE DIGEST OF PROPOSED ACTION/
POLICY STATEMENT OVERVIEW**

The Division of Occupational Safety and Health (the Division) has initiated this rulemaking in response to the recommendation of the Division's Lead-in-Construction Special Emphasis Program Advisory Committee. This committee determined that the Division has significant difficulty in locating lead-related construction operations in progress because there is currently no requirement in Section 1532.1 to notify the Division of such work. The difficulty in finding such jobs undermines the Division's ability to assure that the employees performing this work are protected from exposures to lead as required by Section 1532.1. The inclusion of a notification requirement is expected to enable the Division to conduct more effective inspections to determine compliance with Section 1532.1. The information that is specifically required will enable the Division to prioritize inspections on the basis of the potential severity for lead exposures that could occur at a given lead-related construction site.

Currently, there is no statewide requirement for an employer to provide notification of lead-related construction work to any agency. Some counties, such as San Francisco, have created local ordinances that require employers to report lead construction activities. This allows them to intervene if an occupational or environmental hazard develops at the site. The work activities are similar to activities found in asbestos abatement procedures, and the regulations that apply to the two materials have very similar requirements. One difference, however, is that Section 341.9 requires asbestos work in the construction industry to be reported to the Division, which allows the Division to conduct spot checks of the work activities and determine whether applicable regulations are being followed correctly. This is an aid to the Division in enforcing the asbestos regulations. Creating a similar requirement for lead-related construction work will similarly aid the Division in its efforts to enforce the requirements of Section 1532.1.

A revision is proposed to amend subsection 1532.1(p) to require employers to notify the Division of lead-related work in advance of starting the job. The proposal requires the employer to provide the Division with information regarding a company contact, the location of the work, and the nature of the activity. The proposal provides notification exceptions when work is performed on total surface areas smaller than a specified minimum, and when the work involves materials containing lead in concentrations below a specified level. The proposal also provides an alternative for reporting continuous maintenance-related operations on stationary steel structures, such as bridges, which require frequent surface-coating replacement of worn areas to prevent rust.

The proposed notification process will have the effect of requiring employers to provide information better enabling the Division to locate construction activities that involve work on lead-containing materials that could result in harmful employee exposures to airborne lead and lead particulate on their bodies and clothing. This will aid the Division in its efforts to enforce protections against employee exposure to inorganic lead in accordance with existing standards, and should also reduce take-home lead exposures to employees' families.

The current Federal OSHA standard, 29 CFR 1926.62 Lead, has no such notification requirement.

FINDING OF NECESSITY FOR REPORT REQUIREMENT

The Board finds that it is necessary for the health, safety and welfare of the people of the state that this regulation's reporting requirements apply to business. The current absence of a notification impairs the ability of the Division to assure that the requirements of 1532.1 are being properly implemented by employers to minimize their employees' exposures to lead.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed amendment merely requires employers to notify the Division that specific lead-related activities are scheduled. Employers are already subject to the requirements of Section 1532.1 that are not otherwise amended. Some of these employers already provide a similar notification when performing asbestos-related construction work. Employers are required to make a lead notification similar to the proposal for work in San Francisco County.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. These entities are already subject to the requirements of Section 1532.1 that are not otherwise amended. These agencies are currently required to make a similar notification for asbestos-related work, and in San Francisco County local agencies are required to make a notification of lead-related work.

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because this regulation does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed regulations do not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may effect small businesses.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

2. **TITLE 8:**
LOW VOLTAGE ELECTRICAL SAFETY ORDERS
Chapter 7, Subchapter 5, Article 3
Section 2320.2(a)
HIGH VOLTAGE ELECTRICAL SAFETY ORDERS
Chapter 7, Subchapter 5, Article 36
Section 2941(f)
Electrical Worker Apparel and Use of a Ground-Based Observer When Performing Rubber Gloving Operations on Energized Conductors/Equipment

INFORMATIVE DIGEST OF PROPOSED ACTION/ POLICY STATEMENT OVERVIEW

Among the many hazards facing workers exposed to energized conductors and systems is the potential that flames and electric arcs will ignite their clothing causing severe burns. Federal OSHA recognized this hazard when, in 1994, it included a provision in its Electric Power Generation, Transmission, and Distribution standard that requires employers to ensure that each employee who is exposed to the hazards of flames or electric arcs does not wear clothing (apparel) that when exposed to flames or electric arcs could increase the extent of injury that would be sustained by the employee. This federal requirement is outlined in 29 CFR 1910.269(l)(6) of the Electric Power Generation, Transmission and Distribution; Electrical Protective Equipment, Final Rule published in the Federal Register dated Monday, January 31, 1994.

The Occupational Safety and Health Standards Board (Board) received a memorandum dated April 12, 2000 from the Chief of the Division of Occupational Safety and Health (Division) requesting that the Federal OSHA requirement regarding electrical worker apparel be adopted into the Low Voltage Electrical Safety Orders (LVESO). The Division stated that the scope of Federal OSHA's Final Rule to 29 CFR 1910.269 includes both high and low voltage applications.

Existing Section 2940.6(j) of the High Voltage Electrical Safety Orders requires that employers ensure that each employee who is exposed to the hazards of flames and electric arcs does not wear apparel that when exposed to flames or electric arcs will increase the extent of injuries sustained by the employee. The existing Low Voltage Electrical Safety Orders, however, only requires that an employee wear "suitable personal protective equipment" and does not specifically address the use of fire retardant apparel when the employee is exposed to the hazards of flames and electric arcs while working on exposed energized parts of equipment or systems.

The proposed amendment to Section 2320.2 of the LVESO provides language essentially verbatim of what is already contained in the HVESO and 29 CFR 1910.269(l)(6), and will render the Electrical Safety Orders at least as effective as the federal standard with regard to the apparel worn by employees exposed to flames and/or electric arcs.

The second part of this proposed rulemaking action is in response to a petition request, dated April 15, 1999, submitted by the International Brotherhood of Electrical Workers (IBEW), Local 1245 (OSHSB Petition File No. 398). The petitioner's proposal consists of an amendment to Section 2941(f)(1) of the HVESO to add a new subsection requiring a trained, ground-based observer to be present whenever employees are performing rubber gloving operations on primary conductors or equipment energized in excess of 7,500 volts. The ground-based observer, through his/her training and location on the ground with access to the lower controls of aerial devices/digger derricks, will be able to render immediate assistance (i.e., lower the employee to the ground) in the event an employee is injured or otherwise incapacitated when rubber gloving energized conductors/equipment.

The proposed amendments to the LVESO and the HVESO were prepared with the assistance of an advisory committee which included representatives from the IBEW, the utility industry, and electrical contractors.

Section 2320.2. Energized Equipment or Systems.

Section 2320.2 contains the pre-work and post-work requirements for work to be performed on energized equipment or systems.

Subsection (a) contains several requirements addressing safe work practices/procedures for employees working on energized parts of equipment or systems including, but not limited to: responsible supervision of work performed on energized equipment/systems, employee instructions, use of personal protective equipment, etc.

Proposed new subsection (a)(7), which is essentially verbatim of Section 2940.6(j) of the HVESO and 29 CFR 1910.269(l)(6), will require each employee exposed to the hazards of flames or electric arcs to wear apparel that when exposed to flames or electric arcs will not increase the extent of injury sustained by the employee.

Proposed subsection (a)(7) prohibits employees from wearing clothing containing acetate, polyester, nylon or rayon, either alone or in blends, unless the employee can demonstrate that their garment(s) are constructed of fabric which has been treated with a fire retardant.

Section 2941. Work on or in Proximity to Overhead High Voltage Lines.

Section 2941 contains regulations pertaining to work performed on or in proximity to overhead high voltage lines including, but not limited to: access to insulators, riding span wires, inspections, pole steps, and grounding de-energized conductors or equipment.

Subsection (f) contains requirements for work performed on conductors or equipment energized at 600 volts or more.

Subsection (f)(1) contains regulations requiring employees to wear suitable insulating gloves with protectors or other suitable protective devices when touching or working on exposed energized conductors or equipment. Subsection (f)(1) also requires gloves to be labeled as meeting the American Society of Testing of Materials (ASTM) D120-95 standards appropriate to the voltages to be encountered. This regulation also prohibits the use of rubber gloves when working on conductors or equipment energized in excess of 21,000 volts.

Proposed new subsection (f)(1)(D) will require the presence of a ground-based qualified person trained in CPR/First Aid, radio procedures, and use of aerial device/digger derrick positioning controls and rescue procedures for emergency purposes.

The proposed regulation will require the employer to designate and train a qualified person in accordance with the proposed language and have that person on the ground and in proximity to the lower controls of the aerial device/digger derrick for emergency rescue purposes.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

Board staff is not aware of any state employees who conduct rubber gloving of exposed energized conductors at 7,500 volts or more. Rubber gloving is typically a utility industry operation not normally conducted by state employees. Therefore, no costs or savings to state agencies will result as a consequence of the proposed action pertaining to the requirement of a ground-based observer.

Likewise, work performed on energized conductors/equipment operating at voltages capable of generating hazardous arcs or flames is conducted primarily by outside electrical contractors (electricians) and not by state employees. Therefore, Board staff expects any cost impact to be insignificant.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The wearing of apparel composed of fabrics which will not exacerbate injury to the skin in the event of contact with flames or electric arcs appears to be consistent with existing workplace practice. Electrical contractors, electricians, qualified electrical workers, etc., have generally accepted the practice of not wearing clothing composed of synthetic fibers such as acetate, nylon, polyester, and rayon. Therefore, the cost impact to businesses performing electrical work on a contractual basis resulting from having to switch to apparel that conforms to the proposed amendment to Section 2320.2 is expected to be insignificant in comparison to the total cost of doing business.

In addition, testimony received during the July 12, 2000 Advisory Committee that reviewed the proposal suggests that the use of a ground-based trained observer during rubber gloving operations is generally a current and accepted practice with a number of California utility companies. Therefore, no significant cost impact, in comparison to the overall costs associated with conducting rubber gloving operations, is expected.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose non-discretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed regulations do not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may effect small businesses.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The above proposals do not contain building standards regulations as defined by Health and Safety Code Section 18909.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than

April 13, 2001. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on

April 19, 2001 will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided in the following paragraph or submitted by fax at (916) 274-5743 or e-mailed at oshsb@hq.dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to John D. MacLeod, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

JERE W. INGRAM, Chairman